



Indiana Judicial Nominating Commission

30 South Meridian Street, Suite 500
Indianapolis, IN 46204
(317) 232-4706

Application for the Indiana Supreme Court

The application for the Spring 2016 vacancy on the Indiana Supreme Court includes two parts. Both Part One and Part Two must be completed. Part Two *must* be provided separately as directed in the instructions. Answers in Part One and Part Two are a matter of public record and will be supplied to the media and public upon request. However, only answers in Part One may be posted online by the Indiana Judicial Nominating Commission.

Part One, Sections 1-11

1. Contact/General Information

A. Full legal name and any former names.

James Robert Ahler

B. State the full name (use initials for minor children), age, and relationship of each person residing in your household. For each adult living in the household (other than yourself), also state the person's occupation and employer.

(1) Tara Jean Smith (spouse), age 45, Special Agent, Federal Bureau of Investigation

(2) QA (son), age 10, elementary student

(3) SA (daughter), age 7, elementary student

C. Business address, email, and telephone number.

**Address: Jasper County Courthouse, 115 W. Washington St., Suite 300,
Rensselaer, IN 47978**

Email: james.ahler@co.jasper.in.us

Phone: (219) 866-4971

D. Attorney number.

IN #19740-49

E. Month and year you were admitted to the Indiana Bar.

June 1997

- a. Indicate current law license status, i.e. active/inactive/retired.

Active

- b. If you are or have been a member of the Bar of any other state, identify the jurisdiction and provide date(s) of admission and current license status.

State of Illinois, admitted May 2000 (Inactive)

- F. Date and place of birth.

Date: February 25, 1970

Place: Ellsworth Air Force Base, SD

- G. County of current residence and date you first became a resident.

Jasper County, June 1970

2. Secondary Education/Military Experience

- A. List all undergraduate colleges and universities you attended. Include the school name; dates enrolled; degree or certificate earned; and any academic honors, awards, or scholarships you received and when.

School:

Dates Enrolled:

Degree Earned:

Indiana University-Bloomington

9/1988 – 7/1992

B.A., History

Saint Joseph's College

summer 1990

none

Awards/Honors:

Indiana University Varsity Football Team: 1988-1991, three-time collegiate bowl game participant, played under Head Coach Bill Mallory

All-Big Ten Academic Football Team: 1991

- B. Include with your original application a certified transcript from each school named in Subsection 2A, and attach copies of each transcript to each application copy. (If your social security number is on your transcripts, redact it *before* copying.)

See Attachment A

- C. If applicable, list any military service. Include the name of the military branch; dates of service; last rank achieved; and any honors, awards, or commendations received and when. Attach a copy of your Certificate of Release or Discharge from active duty ("DD 214" paperwork).

Not applicable

3. Post-Secondary Education

- A. List all law schools, graduate schools, and post-J.D. programs attended. Include the school name; dates enrolled; degree or certificate earned; class rank; and any academic honors, awards, or scholarships you received and when.

<u>School:</u>	<u>Dates Enrolled:</u>	<u>Degree Earned:</u>	<u>Class Rank:</u>
Saint Louis University School of Law	9/1993 – 5/1996	J.D.	unknown

Awards/Honors:

Judicial Intern to Hon. Terry I. Adelman (E.D. of MO), fall 1995

Top Class Score, Trial Advocacy I, spring 1995

Law Clerk to Hon. Thomas G. Fisher, Indiana Tax Court, summer 1994

- B. Include with your original application a certified transcript from each school named in Subsection 3A, and attach copies of each transcript to each application copy. (If your social security number is on your transcripts, redact it *before* copying.)

See Attachment B

4. Employment

- A. Provide your employment history since graduation from college. Include name of employer, titles or positions, locations, and dates of employment.

State of Indiana, Judge, Jasper Superior Court, Rensselaer, IN, fall 2007 to present

Scandaglia & Ryan, Litigation Attorney, Chicago, IL, spring 2005 to fall 2007

FagelHaber LLC, Litigation Attorney, Chicago, IL, summer 2003 to spring 2005

Burke Warren MacKay & Serritella, P.C., Litigation Attorney, Chicago, IL, spring 2002 to spring 2003

Piper Rudnick LLP, Litigation Attorney, Chicago, IL, fall 1999 to spring 2002

Hon. William J. Bauer, 7th Circuit Court of Appeals, Judicial Law Clerk, Chicago, IL, fall 1998 to fall 1999

Spangler Jennings & Dougherty, Litigation Attorney, Merrillville, IN, fall 1997 to fall 1998

Hon. Michael S. Kanne, 7th Circuit Court of Appeals, Judicial Law Clerk, Lafayette, IN, fall 1996 to fall 1997

Spangler Jennings & Dougherty, Summer Law Clerk, Merrillville, IN, 1995

Indiana Tax Court, Hon. Thomas G. Fisher, Summer Law Clerk, Indianapolis, IN, 1994

Conchy Joe's Seafood, Waiter/Host, Jensen Beach, FL, winter to summer 1993

President's Council on Physical Fitness, Program Support Specialist, Bloomington, IN, fall to winter 1992

- B. If applicable, describe the nature and extent of your practice of law (present and former), and provide the names of your partners, associates, office mates, and employers.

(1) Judicial Law Clerk for Circuit Judges Kanne and Bauer, U.S. Seventh Circuit Court of Appeals

I served as a judicial law clerk for the Hon. Michael S. Kanne from the fall of 1996 to the fall of 1997 and for the Hon. William J. Bauer from the fall of 1998 to the fall of 1999.

As a judicial law clerk for Judges Kanne and Bauer, I reviewed briefs, researched points of law, and wrote legal memoranda. I attended many oral arguments and assisted in the drafting of many opinions regarding criminal law. I drafted briefs involving the following criminal issues: search and seizure law under the Fourth Amendment, Sixth Amendment right to counsel, prosecution of gangs and organized crime under the Racketeer Influenced and Corrupt Organizations (RICO) Act, application and constitutionality of the United States Sentencing Guidelines, money laundering, felons in possession of handguns, and sale and distribution of crack/cocaine. I assisted in the preparation of legal memoranda and draft orders on petitions for rehearing en banc, which included a rehearing en banc on a writ of habeas corpus (following the imposition of a death sentence by an Illinois state court).

I assisted in the drafting of civil opinions involving a wide variety of issues: 42 U.S.C. § 1983 claims, Sherman Antitrust Act applications, First Amendment free speech application within public schools, Commerce Clause applications, diversity jurisdiction requirements, employment law, breach of contract, trade secrets, attorney fees awards under federal law, and application of the Federal Rules of Evidence in jury trials.

As a judicial law clerk for Judges Kanne and Bauer, I drafted more than 40 opinions. I reviewed, edited, and assisted in the final production of approximately 80 additional opinions. My co-clerks while working for Judge Kanne were John Lausch (Chicago) and Todd Zubler (Washington, D.C.). My co-clerks while working for Judge Bauer were Audrey Fried (Toronto, Ontario) and Brian Rubenstein (location unknown).

(2) Litigation Attorney in Chicago and Northwest Indiana

In my years as a practicing attorney, (1997-1998, 1999-2007) my primary focus was commercial litigation. I also practiced criminal defense in state and federal courts in Indiana and in Illinois.

In 1997, I began my private practice at Spangler, Jennings, and Dougherty in Merrillville, IN. I practiced in the areas of medical malpractice, insurance claims,

employment law, and appeals. I practiced with Dave Hanson, Greg Tonner, and John McQuillian, among other attorneys at the firm. While practicing at Spangler, I successfully fully defended a client on appeal in a construction premises liability matter. *See Helton v. Harbrecht*, 701 N.E.2d 1265 (Ind. Ct. App. 1998).

In 1999, I began as an associate at Piper Rudnick, LLP (Chicago), one of the largest firms in the nation. My practice focused on commercial litigation, white collar crime, and appeals. For example, I represented large and mid-sized companies regarding claims made against them for investment fraud and breach of fiduciary duties. I represented a large logistics company in breach of contract claims made by a large e-commerce company with whom they conducted substantial business. I assisted in drafting multiple appellate briefs before the Seventh Circuit Court of Appeals. I managed large-scale document productions and I assisted in defending several large companies in federal investigations. Along with a managing partner of the firm, I successfully defended a medical device corporation and its CEO in a lengthy federal bench trial involving investment fraud claims. I practiced with Raj Shah, Peter Ellis, Carl Poedtke, and Gretchen Miller, among other attorneys at the firm.

From 2002 to 2005, I practiced with Burke Warren MacKay & Serritella, P.C. (Chicago) and with FagelHaber LLC (Chicago). My areas of practice were commercial and general litigation. While at these firms, I drafted many dispositive motions and engaged in all phases of pre-trial discovery. I assisted in representing individuals in state and federal criminal investigations. I represented companies in construction and corporate disputes. I represented individuals in estate administration proceedings, including efforts to remove personal representatives from their administrative duties as a result of breaching their fiduciary duties. My practice also included cases involving creditor's rights and shareholder disputes. I practiced with David Rownd (FagelHaber), Christina Berish (FagelHaber), Steve Meinertzhagen (Burke Warren), and Robert Emanuel (Burke Warren), among other attorneys at those firms.

From 2005 to 2007, I practiced with Scandaglia & Ryan, a highly-regarded Chicago boutique litigation firm specializing in commercial litigation. While at that firm, I practiced in both state and federal courts. I represented commercial landlords in lease disputes with their corporate clients, which involved substantial lease negotiations as well as litigation to enforce rights under the lease. I represented a venture capital company and an individual investor who purchased hotels and resorts throughout the United States and Mexico. These purchases resulted in significant litigation in federal court regarding broker-dealer compensation, breach of fiduciary duties and fraud claims. I filed breach of contract claims on behalf of an Italian furniture corporation to recover furniture that had been delivered without payment to galleries and to stores throughout the Midwest. In representing these clients, I managed all phases of pre-trial litigation, including the preparation of expert witness reports on the issues of commercial damages valuation.

I also handled criminal law matters while at Scandaglia & Ryan. I defended a state employee charged with violating federal law and worked with federal agents and prosecutors in grand jury proceeding against my client and other state employees. I

practiced with Greg Scandaglia, William Ryan, Therese Tully, and Eric Munoz, among other attorneys at the firm.

In November of 2007, I was appointed to the Jasper Superior Court bench.

5. Trial/Judicial Experience

- A. Describe the extent of your jury trial experience, if any.**

As a practicing attorney, I provided litigation support throughout the course of several civil jury trials. I assisted in jury selection and in witness preparation. I created trial notebooks and demonstrative exhibits for jury trials. I drafted motions in limine, motions to bar expert witnesses (Evidence Rule 702), and motions for judgment on the evidence (Trial Rule 50).

- B. Describe the extent of your bench trial experience, if any.**

I tried approximately 12 civil bench trials to completion. These trials occurred in both state and federal court. My trial experience includes claims for investment fraud, breach of fiduciary duties, trade secret misappropriation, and director/officer liability. I also tried civil contempt actions to the bench. Finally, I argued numerous TRO and preliminary injunction cases in federal and state courts.

- C. If applicable, describe the nature and extent of your judicial experience (including as a judge *pro tempore*). Include a description of your experience presiding over jury trials, if any.**

I have served as the Jasper Superior Court Judge from 2007 to the present. The Jasper Superior Court is a court of general jurisdiction and is one of two courts of record in Jasper County. Since becoming judge, I have resolved tens of thousands of cases involving a wide range of criminal and civil legal issues. The time I spend in court is evenly divided between criminal and civil cases.

I have presided over approximately 13 jury trials since taking the bench. The criminal trials have included charges of burglary, theft, domestic battery, battery causing serious bodily injury to minors, official misconduct, and operating motor vehicles while intoxicated. The civil trials have included a medical malpractice case involving the death of an infant, personal injury, and other negligence-based claims.

I have presided over hundreds of bench trials encompassing a wide variety of criminal and civil issues. I have conducted hundreds of sentencing hearings on cases ranging from common misdemeanors to murder. I have resolved several hundred protective orders and requests for injunctive relief. I have presided over hundreds of domestic relations matters involving modification of child support and custody. I have adjudicated numerous probate and estate matters. While sitting as a special judge, I have resolved juvenile cases, including child in need of services (“CHINS”) cases and status offenses.

I regularly sit as a special judge in many other Indiana trial courts. I only decline requests to take special judge cases when I am ethically prohibited from hearing them. To date, I have accepted more than 250 special judge cases.

I have successfully completed an appointment as a hearing officer in an attorney discipline matter. Specifically, on June 11, 2013, the Indiana Supreme Court appointed me to serve as the hearing officer regarding *In the Matter of Christopher C. Hedges*, Cause No. 45S00-1305-DI-00342 (filed May 12, 2013). This matter was resolved by a published order on October 24, 2013. Recently, I accepted a second appointment from the Indiana Supreme Court to serve as a hearing officer in another attorney discipline matter.

In June of 2012, I successfully completed the Indiana Graduate Program for Judges (Class of 2011-2012). The program consists of a week-long course of academic study each year. The participants were required to make a two-year commitment to the program. My class included approximately 25 Indiana judges. The faculty of the program included, among others, nationally recognized professors from the University of Virginia, New York Law School, Indiana University, and a judge of the Supreme Courts of Scotland. At the conclusion of the program each summer, the participants were required to submit to law school examinations covering the material offered.

In 2014, I was awarded my Indiana Judicial College Certificate. A judicial officer must complete 120 hours of education presented by the Indiana Judicial Center to receive this certificate. The programs offered are designed for judicial officers to enhance their legal knowledge and improve their personal and professional development.

Outside the courtroom, I have many judicial administrative duties. For example, I serve as the supervising judge of the Jasper County Courts Alcohol and Drug Program. I share responsibilities in the supervision of our probation department. I am a member of the Judicial Strategic Planning Committee, and the current chairperson of the Judicial Community Relations Committee. Appointed by the chief justice, I serve as a member of the Indiana Public Defender Commission. I also serve as an advisory board member to Jasper County Community Corrections.

While serving as judge, I have established and have maintained an excellent working relationship with other county officials, including the Jasper County Commissioners and the members of the Jasper County Council. We work together well and for the benefit of our entire county. For example, in 2011, I was part of a small team comprised of judges, council members, commissioners, and law enforcement personnel who developed and implemented a comprehensive courthouse security plan. Prior to the implementation of this plan, county efforts to secure the courthouse had stalled for many years. Our team consulted with outside experts and worked long hours to develop a plan that was acceptable to each branch of government and law enforcement. The implemented security plan has been a great success in that it greatly enhances safety and security for all county employees and citizens utilizing the courthouse.

Although I was appointed to the Jasper Superior Court by Governor Mitch Daniels in 2007, I was elected to that same position by the residents of Jasper County in 2008 and

re-elected in 2014. As judge, I have had the opportunity to serve in a community and state that I love and in a role that I am honored to fulfill.

6. Professional Experience

Include as writing samples, four selections (in total) from the written materials listed below in Subsections 6A – 6C.

See Attachments C-F

A. If applicable, list up to five trial or appellate briefs and/or judicial opinions you have written. Refer to them by caption, case number, and filing date.

- (1) Defendants' Memorandum in Support of Their Motion to Strike the Expert Report and Testimony of Russell W. Mangum, *Amakua Dev., LLC v. H. Ty Warner*, (No. 05 CV 03082, N.D. Ill., filed Jan. 17, 2007); See Attachment C.
- (2) Motion to Strike Certain Special and Affirmative Defenses of Defendants Import Enterprises, Inc. and Iza Gavartin, *A.L.F. Uno S.P.A., Inc. v. Leon Gavartin*, (No. 06 C 2805, N.D. Ill., filed Feb. 23, 2007); See Attachment D.
- (3) Findings of Fact, Conclusion Thereon, and Order, *Jenna Mobley v. Stephen W. Robertson, in his capacity as Administrator of the Patient's Compensation Fund*, (No. 37D01-1012-CT-000777, Jasper Superior Court, Filed Sept. 30, 2014); See Attachment E.
- (4) Order on Petition for Writ of Certiorari and Cross-Motions for Summary Judgment, *Hans Markland v. Jasper County Board of Zoning Appeals*, (No. 37D01-1107-PL-0622, Jasper Superior Court, filed Feb. 12, 2013); See Attachment F.
- (5) Plaintiff A.L.F. Uno S.P.A. Inc.'s Opposition to Leon Gavartin and Import Enterprises of Illinois, Inc.'s Motion to Dismiss, *A.L.F. Uno S.P.A., Inc. v. Leon Gavartin*, (No. 06 C 2805, N.D. Ill., filed Aug. 10, 2006).

B. If applicable, list up to five legislative drafts or court rules you have written or to which you contributed significantly. Refer to them by official citation, date, and subject matter.

- (1) Standard J: Caseloads of Counsel, Standards for Indigent Defense Services in Non-Capital Cases, Indiana Public Defender Commission, Amended December 9, 2015. As a member of the Public Defender Commission, I participated in the revision of Standard J. The commission has made several revisions to Standard J since I have been a member. The multiple revisions were made, among other reasons, to reflect more accurately the actual workload of an attorney serving as defense counsel in a participating county.
- (2) Standard E: Appointment of Counsel, Standards for Indigent Defense Services in Non-Capital Cases, Indiana Public Defender Commission, Amended June, 2013. As a member of the Public Defender Commission, I participated in the revision of Standard E. Specifically, the commission amended Standard E to

include qualification standards for CHINS and TPR cases and then made counsel eligible for reimbursement on these cases after July 1, 2013.

- (3) **Standard G: Compensation of Salaried or Contractual Public Defenders, Standards for Indigent Defense Services in Non-Capital Cases, Indiana Public Defender Commission, Amended June, 2013.** As a member of the Public Defender Commission, I participated in the revision of Standard G. Specifically, the commission amended Standard G to provide that, among other things, full-time salaried public defenders shall have equal salaries and compensation to that of full-time deputy prosecutors, effective January 1, 2014.
- (4) **LR37-AR00-08 Unified Bond Schedule, Local Court Rules for Jasper Circuit and Jasper Superior Court, Amended July 1, 2014.** This rule was amended in a joint effort of the judges of the Jasper Superior and Circuit Courts for the purpose of establishing a common bond schedule for persons arrested without warrants on misdemeanors, Level 5 (F5) and Level 6 (F6) felonies, and those who are held in custody concerning that charge in either Court.
- (5) **LR 37-AR00-15 Alcohol and Drug Program Fees, Local Court Rules for Jasper Circuit and Jasper Superior Court, Amended July 1, 2014.** This rule was amended in a joint effort of the judges of the Jasper Superior and Circuit Courts for the purpose of setting fees for the certified alcohol and drug court program. The rule further establishes that defendants must pay fees so that probation or a contract service provider can monitor the completion of court mandated programs.

C. If applicable, list up to five of your contributions to legal journals or other legal publications. Provide titles, official citations, and a brief description of the subject matter.

- (1) **Hon. James Ahler & Jennifer Bauer, *Community Relations Committee: Stealth Warrior for the Judiciary*, Indiana Court Times, Issue 24.4, Sep/Oct 2015, at 13.** This article explains the efforts of the Indiana Judicial Community Relations Committee to educate the public about Indiana's judiciary. The article summarizes the committee's efforts to engage Indiana judges with their local community and media.

D. Identify the five most significant legal matters entrusted to you, whether as a judge or lawyer, and describe why you believe them to be so.

- (1) **Katsaros v. Loeb, Cause No. 37D01-1106-CT-000473**

I was the trial judge in this matter. This wrongful death and medical malpractice action was brought by the parents of C.K., a one-month-old minor male, who had been born at 20 weeks gestational age. He reportedly died after developing meningitis and sepsis, leading to edema of his brain, while he was under the care of the pediatrician and neonatologist Sandra Lee Loeb, M.D., and Porter Memorial Hospital (the "Hospital").

Plaintiffs claimed that Dr. Loeb and the Hospital's agents, employees, and representatives were negligent and failed to treat the decedent in compliance with

reasonable and accepted standards of medical and nursing care. Specifically, Plaintiffs asserted that the Hospital's infection control policies were inadequate, leading to the transmission of a nosocomial infection to the decedent. The Hospital's employees waited nearly 24 hours after cultures were drawn to report a gram stain result to Dr. Loeb. Plaintiffs further asserted that Dr. Loeb continued the decedent's PICC line longer than necessary, thereby increasing his chances of developing a nosocomial infection. Among other allegations, Plaintiffs asserted that Dr. Loeb missed signs of sepsis and mismanaged testing and treatment once she suspected the decedent was septic. Defendants denied liability. At the conclusion of a lengthy trial, the jury returned a verdict for Defendants.

The facts presented in this case were heartbreaking. While this case involved great personal tragedy for Plaintiffs, it was a fascinating case from a trial perspective. The scientific principles presented in this case were extremely complex. All of the witnesses called in this case were medical experts.

Throughout the entire trial, counsel for both Plaintiffs and Defendants were exceptionally well prepared and represented their clients with tenacity and great professionalism. Counsel made very good use of courtroom technology and demonstrative exhibits, which captured the jury's interest. Counsel filed numerous pre-trial motions which tested my preparation and abilities. Counsel made tactical and articulate trial objections, which challenged my knowledge of trial procedure. Presiding over a case of this caliber was intellectually challenging and professionally rewarding.

(2) *Mobley v. Robinson*; Cause No. 37D01-1012-CT-000777

I was the trial judge in this matter. This case arose from medical treatment provided to Plaintiff Jenna Mobley Wolf ("Mobley") at Porter Memorial Hospital during childbirth. Mobley met the requirements for requesting excess damages from the Indiana Patient's Compensation Fund ("PCF"). Dr. Ramireddy K. Tummuru settled his liability under the Indiana Medical Malpractice Act for payment of his policy limits, and Mobley received \$250,000.00 from that settlement.

Mobley alleged that Dr. Tummuru, an anesthesiologist, negligently performed an epidural injection at the wrong spinal level (T12-L1) resulting in permanent and constant migraine headaches, numbness, hypersensitivity and a burning sensation down her left leg. Mobley claimed that she, as a result of the negligence, walked with a limp and that her migraine headaches were the result of air being introduced into her brain from the epidural injection.

Defendant agreed that Mobley suffered a spinal cord injury from the epidural injection. Defendant disputed that Mobley continued to suffer ongoing headaches as a result of the injury and the extent of Mobley's initial left leg pain, weakness, and hypersensitivity. Defendant further disputed that Mobley suffered any pain, weakness, or hypersensitivity from the initial injury.

Mobley filed her petition for excess damages from the PFC, pursuant to statute. Liability was admitted and the sole issue for the court's determination at trial was the amount of damages, if any, due Mobley from the PFC.

After hearing all of the evidence in this case, the Court concluded that actual damages exceeded the cap under the Indiana Medical Malpractice Statute. The Court concluded that Mobley was entitled to a damage award from the PFC in the amount of \$1,000,000.00.

This trial was significant to me for several reasons. This case reminded me of the monumental responsibility that judges have in rendering decisions. As this matter was a bench trial, it meant that, in addition to ruling upon motions and upon points of law throughout the trial, I would have to determine the additional damages, if any, that would be awarded to Mobley from the PFC. The evidence presented in the trial focused heavily upon the significant, constant and debilitating pain and suffering that Plaintiff experienced in her daily life. The testimony became quite emotional at times, as Plaintiff explained the status of her daily health and the suffering that she had endured.

In the days following the trial, I continued to think deeply about the testimony and the other voluminous evidence presented at trial. I thought hard about the fact that the decision rendered in this case could significantly alter the remainder of Plaintiff's life. It is in these moments that I find the responsibility of judicial decision making to be quite humbling. I am confident that I make my best judicial decisions when I am in this frame of mind.

This case again reminded me of the difficult and important job facing our jurors. While judges have the benefit of numerous legal resources and courtroom experiences to assist them in rendering decisions, the majority of jurors have fewer legal resources and experiences to assist them in reaching a trial verdict. I am extremely appreciative of the service that jurors perform and thoughtfulness with which they reach their verdicts.

(3) Clerking for Judges Kanne and Bauer, U.S. Seventh Circuit Court of Appeals

I have had the fortunate opportunity to clerk for two judges on the Seventh Circuit Court of Appeals, Michael S. Kanne and William J. Bauer. While clerking for these judges, I drafted more than 40 appellate opinions. I reviewed, edited, and assisted in the final production of approximately 80 additional opinions. I conducted research, wrote legal memoranda in preparation of oral argument, and assisted in preparation for en banc hearings. While all of the foregoing experiences have been invaluable to me as a lawyer and now as a judge, they are not the most important experiences that I had while clerking.

Throughout these clerkships I learned the art of thoughtful and precise appellate writing. I witnessed the value of collaborating with colleagues and the benefits that follow when it is done successfully. I learned that judges have great power and that such power should be employed sparingly and only for the pursuit of administering justice. Intellectual curiosity, respect for the law, humility, and compassion for others

are necessary qualities of a good judge. Moreover, truly good judges listen more than they speak.

The lessons that I have learned from these two judges have forged my judicial disposition. Their pictures on my office wall serve as a constant reminder of these important attributes and of my obligation to develop and to employ them in the courthouse and in my community.

(4) The Great Responsibility of Sentencing

Sitting in a court of general jurisdiction, I have had the opportunity to hear many different types of civil and criminal cases. With this opportunity comes the obligation to make responsible and appropriate decisions on every one of those cases. While many civil and criminal cases can present for consideration onerous fact patterns or complex legal issues, I find that sentencing criminal defendants is as difficult as any judicial function required of me.

Since 2008, I have presided over several hundred sentencing hearings. While some are more memorable than others, all of them are important and must be handled with great preparation and care. It would be impossible for me to single out the most significant sentencing case that I have heard as judge. The loss of freedom is significant to every defendant. The loss of loved ones to incarceration is devastating to all families. The pain and suffering endured by the victims of criminal conduct is not unique to any particular segment of society.

Case preparation, knowledge of the relevant laws, a good heart, and a keen sense of fairness are all prerequisites to fashion an appropriate sentence. However, more is needed. Sentencing requires great patience, as defendants and victims must be given the full opportunity to be heard. Additionally, no matter what political, social, or economic pressures are applied in a given criminal matter, the sentencing judge must be able to repel those outside pressures to render an appropriate sentence.

The implementation of these factors at sentencing is among the most difficult of the tasks that I have experienced as judge. Nonetheless, such application is essential in the pursuit of justice.

(5) USA v. Fonfera, Cause No. 07 CR 234-1 (N.D. Ill.)

Defendant, my client, was indicted on federal fraud charges for his involvement in a kickback scheme orchestrated by sales agents of a Chicago-area supply company and its former subsidiary. According to the federal prosecutor, the sales agents, which included Defendant, paid kickbacks, which were disguised as purchasing incentives, to the employees of some of their customers. The kickbacks operated in such a manner that the public was paying higher prices, resulting in higher commissions for the sales agents, and ultimately, the taxpayers suffered.

Defendant was a blue-collar business man with no significant prior criminal history. As anyone could understand, his indictment and federal prosecution placed both him and his wife under considerable stress. Following the initial shock of being indicted, Defendant determined that he would enter into plea negotiations with the government.

As we worked to resolve the government's case against Defendant, I found it very disheartening that the prosecution chose to negotiate in the manner that they did. Specifically, the prosecutor, on several occasions, directed rude and unprofessional comments to Defendant during plea negotiations. While the final resolution of the case against Defendant may have been fair and appropriate, these comments made to Defendant along the way had nothing to do with facts to be proven in the event of a trial and certainly would not be admissible in court. Such tactics were unneeded to resolve the case and they certainly gave Defendant a poor opinion of our profession.

It has been said that "words are the lawyer's tools of trade." While this statement certainly applies to a lawyer's ability to represent effectively his or her client in court, it has a broader application to lawyers and particularly to prosecutors and judges. The words we choose as judges, prosecutors, or advocates, either on paper or in court, are closely watched and evaluated by those who seek justice in our courts of law. We must choose our words wisely to advance our legal positions and also to promote confidence and professionalism in the law.

Effective advocacy and legal professionalism are not mutually exclusive pursuits. Judges and other lawyers in positions of influence must always keep this in mind.

7. Efforts to Improve the Legal System, Administration of Justice, or Society

- A. Describe your efforts, achievements, or contributions (including written work, speeches, or presentations) toward the improvement of the law, the legal system, or the administration of justice. Include a description of any management or leadership roles you undertook to achieve these goals, and describe any specific instances in which your collaborative efforts helped achieve these goals.

(1) Member, Indiana Public Defender Commission

In 2010, I was appointed by Chief Justice Randall Shepard to serve as a member of the Indiana Public Defender Commission, a position I still hold to this day. Since 1989, the Indiana Public Defender Commission has served to recommend standards for indigent defense in capital cases, to adopt guidelines of salary and fee schedules for individual county reimbursement eligibility, and to review and approve requests for reimbursement in capital cases. In 1993, the responsibility of the commission was expanded to include the adoption of guidelines and standards for county reimbursement eligibility in non-capital cases. The Division of State Court Administration provides administrative support and services for the commission.

The commission meets quarterly to review claims, authorize reimbursement to eligible counties, and discuss issues in keeping with the Indiana Supreme Court's and the Indiana Legislature's intent to provide high quality criminal defense services to indigent persons.

During my time on the commission, we have made progress to improve the quality and availability of legal representation for indigent persons. We have done this by closely scrutinizing and revising the commission standards for indigent defense services in both capital and non-capital cases.

I regularly attend and participate in the commission meetings. I take my appointment to the commission seriously and consider it an honor to serve as one of its members.

(2) Member, Indiana Judicial Community Relations Committee

I have been a member of the Judicial Community Relations Committee since 2009. I served as co-chair of the committee in 2014. From 2015 to the present, I have served as the chair of the committee.

One of the primary goals of the committee is to educate the public about the work done by Indiana's judiciary. The committee has worked to achieve this goal in a number of ways, most recently partnering with the Court in the Classroom program, to recruit judges to participate in Constitution Day presentations in schools throughout the state of Indiana. Along with committee members and judges, I proudly participate in this important initiative to improve Indiana's civic education.

The committee's other outreach project is the Judges Speakers Bureau. The bureau is designed to connect schools with volunteer judges who speak about courts and other law-related topics and who facilitate an understanding of the purpose and structure of Indiana's judicial system. I have traveled to local schools or invited students to the court in which I preside on more than 25 occasions over the last eight years. In these presentations, I have spoken to students on a wide variety of topics including county government, judicial process, and the Indiana and U.S. Constitutions.

Yet another goal of the committee is to foster understanding between courts and the media. The Bench and Media Guide to Interaction is a joint production of the committee and the Hoosier State Press Association and is intended as a quick reference for judges and journalists seeking information on relevant issues. During my time on the committee, I have edited portions of the guide. Additionally, along with other committee members, I am now working with the Hoosier State Press Association in an effort to explore and to develop other, more modern, ways in which the press can potentially access and report on Indiana's judicial system.

(3) Member, Jasper County Community Corrections Advisory Board

From 2007 to the present, I have served as an advisory board member to Jasper County Community Corrections ("JCCC"). JCCC protects the public by supervising offenders in appropriate programs and by utilizing evidence-based correctional practices to reduce a person's proclivity to commit crimes. The practices use quality case management services to address criminogenic needs.

Over the last seven years, the advisory board has worked hard to restructure the entire JCCC program. We implemented changes in management and undertook a comprehensive review of the JCCC Standard Operating Procedures Manual (the "SOP Manual"). This comprehensive restructuring, while difficult to implement, resulted in immediate and lasting improvement to the entire program. Now, JCCC operates much more efficiently and provides improved services and instruction to offenders.

I have also served several terms on the finance and development committees. In sum, over the last eight years, the advisory board has collaborated with the judiciary,

probation, commissioners and county council to improve greatly the management and operations of JCCC.

(4) Courtroom Improvements Through Court Reform Grant

Upon taking office as judge, I noticed that the technology available in the Jasper Superior Court consisted of a projector screen, an ancient 19” Box television set, and a VCR, which was used only to play the juror orientation video. Clearly, the courtroom was in desperate need of a technology makeover. In 2010, I applied for a Court Reform Grant through State Court Administration. The grant request was accepted and we received the proceeds to begin the much needed improvements.

With the generous grant proceeds I was able to equip both the Superior and Circuit courts with the following technology: secure Wi-Fi access, wireless printers, courtroom tablets for use by counsel and self-represented litigants, a mobile 50” flat-panel smart television with DVD capabilities, upgrades to the existing audio equipment, and an Elmo document camera. Finally, Jasper County courtrooms were now equipped with 21st Century courtroom technology.

In the trials and other hearings that have taken place since the installation of this new equipment, everyone in the courtroom has greatly benefitted. With the Wi-Fi capabilities, tablets, and wireless printers, lawyers and self-represented litigants are now better able to present their evidence and manage their cases. With the audio and visual improvements, judges and jurors are better able to see, hear, and comprehend court proceedings. Additionally, court personnel are better equipped to work more efficiently and without interruption during court proceedings. The technological improvements that I have acquired through the Court Reform Grant have improved the practice of law in the Jasper County courts and have allowed the courts to better administer justice.

- B. Describe your efforts, achievements, or contributions (including written work, speeches, or presentations) concerning civic, political, or social issues. Include a description of any management or leadership roles you undertook in this area, and describe any specific instances in which your collaborative efforts in this area led to a successful result.

- (1) Speaker/Presenter: A Comparison of State and Federal Courts (co-presentation with Circuit Judge Michael S. Kanne, U.S. Court of Appeals for the Seventh Circuit), Kankakee Valley High School, 2015**
- (2) Opening Ceremonies Speaker, Little Cousin Jasper Festival, Rensselaer, Indiana, 2008-2015**
- (3) Speaker/Presenter, Understanding the Judiciary, Rensselaer Central Middle School Eighth Grade Class, 2014, 2015**
- (4) Speaker/Presenter, Understanding the Judiciary, Kankakee Valley High School, 2009, 2010, 2012, and 2014**
- (5) Speaker/Presenter, Understanding the Judiciary, Saint Augustine Third Grade Class, 2013, 2015**

- (6) **Speaker/Presenter, Constitution Day, Rensselaer Central High School, 2008, 2014**
- (7) **Speaker/Presenter, World Peace, Is it Possible?, Rensselaer Central High School, spring 2013**
- (8) **Speaker/Presenter, Constitution Day, Rensselaer Central Middle School, spring 2013, 2014**
- (9) **Speaker/Presenter, Career Day, Rensselaer Central High Middle School, 2014**
- (10) **Speaker/Presenter, The Role of Adoption, Rensselaer Central High Middle School, 2012**
- (11) **Speaker/Presenter, Know Your State and Local Government, St. Augustine Cub Scout Pack, 2008, 2010**
- (12) **Speaker/Presenter, Know Your State and Local Government, St. Augustine Girl Scout Troop, 2009, 2013**
- (13) **Speaker/Presenter, Know Your State and Local Government, Rensselaer Cub Scout Pack #3155, 2013, 2015**
- (14) **Speaker/Presenter, Why Lincoln Was a Lawyer, Rensselaer Central High School, 2009**
- (15) **Speaker/Presenter, Why Lincoln Was a Lawyer, Kankakee Valley High School, 2009**
- (16) **Speaker/Presenter, Why Lincoln Was a Lawyer, DeMotte Christian High School, 2009**
- (17) **Speaker/Presenter, Memorial Day Ceremony, Demotte American Legion Post #440, 2009**
- (18) **Speaker/Presenter, What to Expect in High School and Why it's Important, Rensselaer Central High School Freshman Class Speech, 2008**

C. Describe your efforts, achievements, or contributions (including written work, speeches, or presentations) to improve your local, state, or national community through charitable work or public service. Include a description of any management or leadership roles you undertook in this area, and describe any specific instances in which your collaborative efforts in this area led to a successful result.

(1) Board member, Jasper Foundation, Inc., Jasper County, Indiana

The Jasper Foundation is one of 94 community foundations serving the state of Indiana. I have served as a foundation board member since 2012. The foundation provides services to the community by initiating projects and approving grant requests in an effort to improve the quality of community life. The foundation helps our community by providing ways for donors to pool their funds and to accomplish their

philanthropic wishes. The foundation acts as a savings account for our community through building, over time, substantial endowed funds from contributions. The contributions can then become permanently invested to produce income. The income earned is then used to help meet charitable needs in our community through grants in the areas of education, arts and culture, health, social concerns, and historic preservation.

In addition to my general duties as a board member, I serve on the Lilly Endowment Community Scholarship Committee. This committee nominates a high school senior for a full-tuition scholarship to the Independent Colleges of Indiana (ICI) on behalf of Lilly Endowment Community Scholars. The scholarship must be used to pursue a baccalaureate degree at any accredited public or private Indiana college or university.

(2) Chairperson of Eagle Board of Review, Boy Scouts of America, Jasper County, Indiana

In 1986, while a Boy Scout, I attained the rank of Eagle Scout, an achievement realized by less than 1% of all Boy Scouts. Recognizing the positive impact that scouting had upon my life and upon the lives of other fellow scouts, I now focus on helping young people achieve the rank of Eagle Scout. Since 2014, I have served as the chairperson of the board for local scout troops in Jasper County, 2014 to present. I also serve as a volunteer in my son's Cub Scout pack.

(3) Coach, Saint Joseph's College Youth Soccer League, Rensselaer, Indiana

From 2010 to the present, I have served as a head soccer coach for both my son's and daughter's youth soccer teams.

(4) Coach, Rensselaer Central Sch. Corp. Youth Basketball League, Rensselaer, Indiana

In 2012, and from 2014 to the present, I have served as the head basketball coach for my son's and daughter's youth basketball teams.

(5) Coach, Upward Sports Basketball League, Demotte, Indiana

In 2013, I served as the head coach for my son's youth basketball team.

D. Describe the nature and extent of any *pro bono* legal services you have contributed.

In 1999 and 2000, I volunteered to serve as a *pro bono* attorney through the 7th Circuit Court of Appeals *pro bono* program. As part of this program, I was assigned a client, who was already serving a federal prison sentence. (*USA v. Robert Henderson*, (No. 98-CR-18) N.D. Ind., Hammond Div.). After spending many hours consulting with my client and reviewing the evidence of record, I prepared an appeal and requested resentencing under the United States Sentencing Guidelines. Thereafter, I argued the appeal in the 7th Circuit before Circuit Judges Richard Posner, Kenneth Ripple, and Ann Clair Williams. See *USA v. Robert Henderson*, 248 F.3d. 1160 (7th Cir. (2000)). This representation exceeded 85 hours of *pro bono* time.

In 2000, the Chicago office of my large national law firm (Piper Rudnick LLP) nominated me for consideration for the firm's national *pro bono* award, which was awarded annually. Although an attorney from another office was ultimately selected for the award, I was honored that my firm, which has a rich tradition of engaging in meaningful *pro bono* work, recognized my efforts in representing my client *pro bono*.

E. Indicate your experience teaching law. Provide the dates, names of institutions or programs, and a description of the subject matter taught.

- (1) Moot Court/Oral Argument Judge, Indiana University McKinney School of Law Honorable Robert H. Staton Intramural Moot Court Competition, October 17, 2015.
- (2) Panel Member/Presenter, *What Civil Court Judges Want You to Know*, National Business Institute Judicial Forum, November 21, 2014. This program was a six hour approved CLE program held in Merrillville, Indiana. The program covered the "best practices" for common civil issues in Indiana courts. I served as a Panel Member/Presenter for the entire six hour program.
- (3) Mock Trial Judge, Notre Dame Law School Intramural Trial Advocacy Program, Notre Dame, Indiana, April 28, 2013.
- (4) Mock Trial Judge, 2013 National Trial Advocacy Competition, hosted by Valparaiso University School of Law, Porter County Courthouse, Valparaiso, Indiana.
- (5) Speaker/Presenter, Criminal Law Update, Jasper County Sheriff's Police Department, Rensselaer, Indiana, 2012 and 2014. On two occasions, I taught local police officers about recent updates in Indiana criminal law and procedure.
- (6) Speaker/Presenter/Mock Trial Judge, S.A.F.E.R. (Sexual Assault Forensic Exam Resource) Program, Rensselaer, Indiana, approximately 2011 to 2015. S.A.F.E.R. is a not-for-profit organization dedicated to caring for individuals who have been victims of sexual assault. I have served as a speaker/presenter at the S.A.F.E.R. annual continuing education program for nurses and health care providers. My area of instruction has been judicial process and courtroom procedure. In a mock trial setting, I have instructed the class participants on the subject of effective courtroom testimony.

8. Memberships and Other Activities

A. List any memberships and offices you have held in professional organizations, including dates and descriptions of the purposes of the organizations and of your involvement.

- (1) Indiana Judges Association, member, 2007 to present
- (2) Seventh Circuit Bar Association, member, 2003 to 2004, and 2015 to present
- (3) Indiana State Bar Association, member, 1997 to present

(4) Jasper County Bar Association, member, 2007 to present

(5) American Bar Association, member, 2007 to present

(6) Chicago Bar Association, 2000 to 2008

B. List any memberships and offices you have held in civic, charitable, or service organizations, including dates and descriptions of the purposes of the organizations and of your involvement.

(1) Rotarian, DeMotte Rotary Club, DeMotte, Indiana, 2008 to present. Rotary is an international service organization whose purpose is to bring together business and professional leaders in order to provide humanitarian services, encourage high ethical standards in all vocations, and to advance goodwill and peace around the world. It is a secular organization open to all people regardless of race, color, creed, religion, gender, or political preference.

(2) Board Member, Christian Haven, Wheatfield, Indiana, 2006 to 2015. Christian Haven was a non-profit organization that ministered to the needs of boys and girls ages 6-18 and their families. Often, these children had experienced traumatic incidents of physical or sexual abuse, neglect, abandonment, personal loss, significant family problems or failed experiences in other treatment programs. From 2006 to 2015, I served as a board member for this organization. In 2015, the organization was purchased by White's Residential & Family Services and our board was dissolved.

C. List any memberships you hold in social clubs or organizations. If any restrict its membership on the basis of race, sex, religion, or national origin, please describe your efforts within the organization to eliminate restrictions.

Parishioner, St. Cecilia Catholic Church, DeMotte, IN, 2007 to present

D. Describe your hobbies and other leisure activities.

When not attending to my judicial duties, coaching, or serving as a community volunteer, the balance of my time is spent parenting our two young children with my wife. My evenings are typically spent reviewing home work assignments, attending numerous school functions, church programs, and athletic events. There is no question that being a committed parent to our children is a challenging and wonderful privilege. I particularly enjoy our fortunate opportunities to travel, to coach my children's athletic teams, and to expose my children to music, theater, and other cultural events.

9. Legal Proceedings

A. List any lawsuits or legal proceedings in any jurisdiction, including but not limited to bankruptcies, dissolutions, and criminal matters to which you have been a party. Provide dates, case numbers, courts, names of other parties, and, if needed, a brief explanation. (If minor children are involved [i.e. an adoption], use initials only.)

Not applicable

- B. If you ever have been arrested or cited for any violation of the law other than for routine traffic violations, provide dates, jurisdictions, and an explanation of the event and its resolution.

Not applicable

- C. If you have been disciplined or cautioned, formally or informally, by the Indiana Supreme Court Disciplinary Commission, by the Indiana Commission on Judicial Qualifications, by the Indiana Supreme Court, or by similar entities in any other jurisdiction, identify each instance by date, case number (if applicable), and describe the circumstances and the nature of the outcome or resolution.

Indiana – Not applicable

Illinois – Not applicable

- D. If you have any outstanding federal, state, or local tax obligations, please itemize and explain.

Not applicable

10. References

- A. Provide the names of three attorneys who have been your professional adversaries in your practice or who have litigated substantial cases in your court and who would be in positions to comment on your qualifications for appointment to the Indiana Supreme Court (contact information to be included in Part Two of this application).

(1) Michael Riley, Attorney at Law

(2) James Beaver, Attorney at Law

(3) James Portelli, Attorney at Law

- B. Provide the names of three professional references other than those listed in Subsection 10A (contact information to be included in Part Two of this application).

(1) Hon. Michael S. Kanne, Circuit Judge, U.S. Seventh Circuit Court of Appeals

(2) Senator Brandt Hershman, Majority Floor Leader, Indiana Senate

(3) Therese Tully, Attorney at Law

- C. Provide the names of three personal references other than those listed in Subsection 10A or 10B (contact information to be included in Part Two of this application).

(1) Rev. William Stang, Colonel and State Chaplain, Indiana Army and Air National Guard; Prof. of Biology, Saint Joseph's College

(2) Kristen Ziese

(3) Dr. Jack Drone

11. State Police Release Form and Photograph

- A. Complete a State Police release form printed on green paper (you may obtain the release form by contacting the Nominating Commission Office at 317-232-4706). Include the release form with the original application only and not with the copies.

Submitted

- B. Attach a recent photograph of you to the front of the original application and to each copy of your application. (This allows the Commission members to put a face with a name if you are interviewed in person.)

See application binder cover

1/24/16

Date

Applicant Signature

James R. Ahler

Printed Name